

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 1031 - SB 1236

February 13, 2023

SUMMARY OF BILL: Creates the Inmate Disciplinary Oversight Board (Board) for the purpose of granting or denying inmate sentence credits for good institutional behavior and to determine whether sentence credits previously awarded should be removed for commission of a major infraction designated by the Department of Correction (DOC) as a Class A disciplinary offense or for an inmate's refusal to participate in an assignment.

Establishes that the Board is autonomous in structure and has the authority to perform all administrative functions necessary to carry out its duties. Requires the Board be made up of seven members appointed by the Governor, the Speaker of the House of Representatives and the Speaker of the Senate. Prohibits a member of the Board from holding any other salaried public office, whether elective or appointive. Requires the Board to appoint an Executive Director. Authorizes the Board to employ additional staff as necessary. Establishes the permanent office of the Board is in Nashville, and requires the Board to meet at least monthly.

Beginning January 1, 2024, requires the warden of each institution to submit written documentation to the Board by the 15th day of each month: (1) an inmate's good institutional behavior and the warden's recommendation as to any award of sentence credits; (2) an inmate's Class A disciplinary infraction or refusal to participate in a program; or (3) an inmate's refusal to participate in any assigned work, educational, or vocational training program.

Requires credits for good institutional behavior be awarded on a monthly basis at the discretion of the Board based on the criteria established by the Board, and after receipt by the Board of written documentation of an inmate's good institutional behavior and the warden's recommendation.

Requires the superintendent or jailer to notify the Board of the amount of sentence reduction credits for good institutional behavior that an inmate should receive for time incarcerated prior to imposition of sentence, as opposed to the superintendent or jailer objecting to an award of sentence reduction credits. Requires the Board to award the appropriate number of sentence reduction credits, if any, based on the criteria established by the Board and the recommendation of the superintendent or jailer.

FISCAL IMPACT:

Increase State Expenditures –

Exceeds \$1,913,700/FY23-24

Exceeds \$2,084,500/FY24-25 and Subsequent Years

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Other Fiscal Impact – It is assumed the positions included are a minimum for the initial operations of the newly created board. Once operational, the board and executive director will determine the exact staffing necessary to meet the requirements of the proposed legislation and will incur additional expenditures.

Due to a number of unknown factors, the extent and timing of any fiscal impact to state incarceration expenditures associated with a change in sentence reduction credits resulting from the proposed legislation cannot be quantified.

Assumptions:

- Pursuant to Tenn. Code Ann. § 41-21-236(a)(2), an inmate committed to the custody of the DOC who exhibits good institutional behavior or who exhibits satisfactory performance may be awarded time credits toward the sentence imposed at a rate up to eight days for each month served for good institutional behavior and up to eight days for each month served for satisfactory program performance, in accordance with criteria established by the DOC.
- Pursuant to Tenn. Code Ann. § 41-21-236(e), an inmate incarcerated in a local jail who exhibits good institutional behavior is automatically awarded sentence reduction credits at a rate of eight days for each month incarcerated after conviction but prior to a sentence being imposed, unless there is written objection filed by a superintendent or jailer.
- The proposed legislation will eliminate such automatic sentence reduction credits and instead require the warden, superintendent or jailer to provide written documentation to the Board evidencing an inmate's good institutional behavior and the number of sentence reduction credits, if any, the inmate should be awarded.
- The proposed legislation does not alter the number of sentence reduction credits an individual is authorized to receive.
- Any change in sentence reduction credits resulting from the proposed legislation is dependent on several unknown factors, including but not limited to: the criteria that will be established by the Board; the actions by local superintendents and jailers; the time served between convictions and sentences being imposed for each inmate; the overall sentences of each inmate; and if such inmates will serve time in a state or local facility.
- While the changes to reporting may result in variances in the total number of sentence reduction credits for good institutional behavior, the extent and timing of any changes cannot reasonably be quantified.
- The proposed legislation will require extensive changes to the offender management system and require a one-time increase in contract expenditures from the General Fund estimated to exceed \$250,000 in FY23-24.

Inmate Disciplinary Oversight Board

- The Board will consist of 7 non-legislative members.

- The salary for members of the Board are established by the Governor, and are required to be no more than 85 percent and no less than 60 percent of those established for Class 2 state officials pursuant to Tenn. Code Ann. § 8-23-101.
- It is reasonably assumed Board members' salaries will equal 75 percent of the midpoint salary for a Commissioner 2 position.
- The annual cost for each board position is estimated to be \$223,687 (\$186,975 salary + \$36,712 benefits).
- The total recurring increase in state expenditures associated with the Board member positions is estimated to be \$1,565,809 (\$223,687 x 7 members).
- It is assumed members will be appointed to the Board by September 1, 2023, which is approximately 83.33 percent of FY23-24. As such, this analysis estimates the total increase in state expenditures associated with Board member positions to be \$1,304,789 (\$1,565,809 x 83.33%) in FY23-24, and \$1,565,809 in FY24-25 and subsequent years.
- Members of the Board are authorized to receive reimbursement for travel expenses to attend meetings.
- The average miles travelled per member is estimated to be 254 miles roundtrip, for a total reimbursement of \$160 per meeting.
- Prior to January 1, 2024, the Board will meet two times; afterwards, the Board will meet monthly.
- Eight meetings will be held in FY23-24 and twelve meetings will be held in FY24-25 and subsequent years.
- An increase in state expenditures of \$8,960 (\$160 x 7 members x 8 meetings) in FY23-24.
- An increase in state expenditures of \$13,440 (\$160 x 7 members x 12 meetings) in FY24-25 and subsequent years.
- The proposed legislation requires the Board to appoint an Executive Director to act as the chief administrative officer, who will supervise all employees of the Board and assist the Board in the formulation, development, and implementation of procedures and policies.
- It is assumed that the Director will be paid as the equivalent position of a Senior Administrative Law Judge under the Secretary of State. It is further assumed that the Executive Director will begin employment on November 1, 2023, which is approximately 66.67 percent of FY23-24.
- The annual cost of a Senior Administrative Law Judge position is \$152,277 (\$124,308 salary + \$27,969 benefits). Therefore, the increase in state expenditures associated with the Executive Director position is estimated to be \$101,523 (\$152,277 x 66.67%) in FY23-24 and \$152,277 in FY24-25 and subsequent years.
- The Board will also employ one General Counsel 1 position and one Executive Assistant position. It is assumed that these employees will begin employment on January 1, 2024, which is 50 percent of FY23-24.
- The annual cost of a General Counsel 1 position is estimated to be \$141,895 (\$115,404 salary + \$26,491 benefits).
- The annual cost of an Executive Assistant position is estimated to be \$94,322 (\$74,604 salary + \$19,718 benefits).

- The increase in state expenditures associated with these two positions will be \$118,109 $[(\$141,895 + \$94,322) \times 50\%]$ in FY23-24 and \$236,217 $(\$141,895 + \$94,322)$ in FY24-25 and subsequent years.
- There will be an additional recurring increase in state expenditures of \$16,800 $[(\$3,600 \text{ administration fee} + \$1,400 \text{ communications} + \$600 \text{ supplies}) \times 3 \text{ positions}]$. It is assumed that such expenditures will be fully incurred, beginning in FY23-24.
- The total one-time increase in state expenditures associated with the new positions is estimated to be \$13,500 $[(\$1,500 \text{ computer costs} + \$3,000 \text{ office furniture}) \times 3 \text{ positions}]$ in FY23-24.
- Other annual operational expenses will be incurred for office rental space, travel, research, monthly meeting costs, etc. An exact amount is unknown but reasonably assumed to exceed \$100,000 in FY23-24 and subsequent years.
- The total increase in state expenditures is estimated to exceed \$1,913,681 $(\$250,000 + \$1,304,789 + \$8,960 + \$101,523 + \$118,109 + \$16,800 + \$13,500 + \$100,000)$ in FY23-24.
- The total increase in state expenditures is estimated to be \$2,084,543 $(\$1,565,809 + \$13,440 + \$152,277 + \$236,217 + \$16,800 + \$100,000)$ in FY24-25 and subsequent years.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista Lee Carsner, Executive Director

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